

**UNITED STATES DISTRICT COURT
WESTERN DISTRICT OF TEXAS
EL PASO DIVISION**

League of United Latin American)	
Citizens, et al.)	
<i>Plaintiffs</i>)	
)	
v.)	Civil Action No. 3:21-cv-259-DCG-JES-JVB
)	
Greg Abbott, et al.)	
<i>Defendants</i>)	

NON-PARTY TEXAS LEGISLATIVE COUNCIL’S NOTICE TO COURT

Non-Party Texas Legislative Council (“TLC”) provides this notice to the court to clarify the record regarding the United States Department of Justice’s (“DOJ”) third-party subpoena to TLC and Defendants and Subpoena Recipients’ Motion to Quash or, in the alternative, Motion for Protective Order (“Motion”).

1. TLC is a nonpartisan legislative agency of the State of Texas established under Chapter 323 of the Texas Government Code. TLC serves as a source of impartial services, research, and information to the entire Texas legislature and the legislative agencies of Texas.

2. TLC is not a party to this lawsuit but maintains information relevant to the litigation. Accordingly, on February 28, 2022, TLC received a third-party subpoena for documents from DOJ related to the above-captioned lawsuit. *See* Dkt. 218-5 [Subpoena].

3. On March 28, 2022, TLC provided an extensive response and objections (“Objections”) to the DOJ’s third-party subpoena. The Objections are attached hereto as Exhibit A. In the Objections, TLC objected to the DOJ’s requests for documents from TLC on many of the same grounds as identified in Defendants’ Motion. *See generally id.*

4. As stated in its Objections, as a legislative agency, TLC is afforded legislative privilege protection. Section 306.008 specifically establishes TLC's legislative privilege and codifies the attorney-client privilege for TLC's attorneys and staff. Tex. Gov. Code § 306.008. Pursuant to Section 323.017 of the Texas Government Code, all communications relating to a legislative request for "information, advice, or opinions" from a TLC employee are confidential and subject to legislative privilege. Tex. Gov. Code § 323.017. Pursuant to Section 323.018 of the Texas Government Code, all records relating to requests of TLC for the "drafting of proposed legislation or for assistance, information, advice, or opinion" are protected by legislative privilege and not public information. Tex. Gov. Code § 323.018. *See* Exhibit A at 3.

5. Furthermore, Section 323.021 of the Texas Government Code, establishes that:

a member of the legislature, the lieutenant governor, . . . or a . . . office . . . or committee that uses a system made available by [TLC] to transmit, store, or maintain records . . . possesses, maintains, or controls the records for purposes of litigation

Section 323.021 establishes that TLC is not the custodian of information possessed, maintained, and controlled by Texas legislative offices and committees. TLC's Objections state that certain documents are statutorily the legislators', not TLC's, and thus, the proper vehicle to request this information is from the legislators themselves, not TLC. *See* Exhibit A at 3-4.

6. Furthermore, each Texas state legislator and the lieutenant governor has signed a directive that, among other things:

(A) clarifies that TLC acts as extensions of each legislative office when performing services for the office;

(B) defines the legislative privilege relationship between the legislative office and TLC;

(C) defines the attorney-client relationship between the legislative office and TLC;

(D) clarifies that the legislator or lieutenant governor, as appropriate, is the custodian of records in the context of litigation; and

(E) directs TLC to assert all applicable privileges and obligations of confidentiality on behalf of the legislative office. *See, e.g.*, Exhibit B [Directive for Dade Phelan].

7. Accordingly, for all intents and purposes, TLC effectively joins Defendants and the subpoena recipients in their request that the TLC subpoena be quashed, modified, or alternatively for a protective order to be entered.

Dated: April 21, 2022

Respectfully submitted.

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CERTIFICATE OF SERVICE

I hereby certify that on April 21, 2022, the foregoing *Non-Party Texas Legislative Council's Notice to the Court* was electronically filed with the Clerk of the Court using the CM/ECF system which will send a notice of electronic filing to all counsel of record.

/s/ Alyssa Bixby-Lawson
Assistant Attorney General